GAMETEK LLC V. FACEBOOK, INC., ET AL. CASE NO.: 3:12-cv-501-BEN-RBB

JOINT CLAIM CONSTRUCTION WORKSHEET FOR U.S. PATENT NO. 7,076,445

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
1. A method of managing the operation of a game which includes a game environment, and is programmed to control a gaming action for at least one of a plurality of users, said managing method using a programmed computer to effect the following steps: a) tracking the activity of the at least one user in the course of the gaming action; b) permitting the at least one user to create an account for receiving a consideration of the at least one user, the at least one user having a set of demographics; c) determining the eligibility of the at least one user to purchase at least one of a plurality of game objects, said eligibility determining comprises the following sub steps: i) permitting the at least one user to select the at least one game object, and iii) comparing the account balance of the at least one user's consideration with the set price of the at least one game object and, determining if the balance of the user's consideration is not less than the set price, determining the at least one user to be eligible to purchase the at least one game object; d) displaying in the game environment a purchase price of the at least one user an offer to purchase the game object dependent upon a group of game parameters comprising the tracked activity of the at least one gaming action of the at	N/A	gaming action: Ordinary meaning; no construction necessary. Alternatively, acts, activities or things done that are part of the game permitting the at least one user to create an account for receiving a consideration of the at least one user, the at least one user having a set of demographics: See below re "consideration," "set of demographics" and "demographics." Otherwise, ordinary meaning; no construction necessary. the at least one user having a set of demographics: The at	gaming action: "the user's playing of the game" '445 Patent at Abstract, Fig 2, Fig 4A; col. 1:54-2:8; 2:25-27; 5:13-17; 5:30-38; 8:20-31; Claims 2 - 4, 6, 7, 9, 10, 11, 12. '445 Prosecution History, 9/26/00 Petition to Make Special, pp. 2-3; 11/13/01 Reconsideration for Petition to Make Special, pp. 2-4; 6/17/02 Amendment & Response, p. 10, 12; 6/17/02 Amendment & Response, p. 10, 12; 6/9/03 Appellant's Brief, pp. 2-3; 9/4/03 Examiner's Answer, pp.5-6;	gaming action: permitting the at least one user to create an account for receiving a consideration of the at least one user, the at least one user having a set of demographics: the at least one user having a set of demographics: the one set of demographics: purchase: account:
least one user and, the one game environment or the one set of demographics of the least one user f) permitting the at		least one user has a set of characteristics such as age,	9/7/04 Reply, pp.10-21; 10/6/05 Examiner Interview	consideration:

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
least one user to purchase the at least one game object at the set purchase price without interrupting the gaming action of the at least one user; and g) supplying the at least one purchased game object to the at least one user without interrupting the gaming action of the at least one user and incorporating the game object into the game.		sex, etc. the one set of demographics: see construction of "the at least one user having a set of demographics," above purchase: To obtain using various currency means, including credit cards, e-cash, e-gold, other Internet enabled currency, and secondary monetary sources, such as, charges to phone or utility bill, transferring credit on pre-paid phone cards, or transit passes, or through conventional payment methods, such as checks, money-orders or cash. account: Ordinary meaning; no construction necessary. consideration: That which is used to make a purchase within	Summary; 11/10/05 Amendment pp. 1-11; 12/30/05 Examiner's Reason's for Allowance, pp. 1-7. permitting the at least one user to create an account for receiving a consideration of the at least one user, the at least one user having a set of demographics: "permitting the at least one user to create an account for storing a consideration balance, where the account maintains two or more types of user characteristics (such as age or income) that associate the account with one or more consumer markets" '445 Patent at Abstract, Fig 1B, Fig 2, Fig 3, Fig 4, fig 4A, fig 5, col. 1:17-26; 1:30-2:46; 2:60-3:20; 4:58-5:2; 5:13-17;	permitting the at least one user to purchase the at least one game object without interrupting the gaming action of the at least one user: interrupting: interrupting the gaming action of the at least one user: supplying the at least one purchased game object to the at least one user without interrupting the gaming action of the at least one user order of claim elements:
		the game. See above re	5:30-38; 6:12-15; 7:8-11; 7:62-	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
		purchase.	10:36, Claims 14, 16, 18, 19.	
		permitting the at least one user to purchase the at least one game object without interrupting the gaming	'445 Prosecution History, 9/26/00 Petition to Make Special, pp. 2-3; 11/13/01	
		action of the at least one user: See above re "purchase" and "gaming action" and see below re "interrupting."	Reconsideration for Petition to Make Special, pp. 2-4; 6/17/02 Amendment & Response, p. 10, 12; 2/7/03	
		Otherwise, ordinary meaning; no construction necessary. interrupting: Ordinary	Amendment & Response, p. 6; 3/18/03 Office Action, pp. 4-5; 6/9/03 Appellant's Brief, pp. 2-3; 9/4/03 Examiner's	
		meaning; no construction necessary. Alternatively, ceasing or stopping for a period of time	Answer, pp.5-6; 9/7/04 Reply, pp.10-21; 11/12/04 Office Action, pp. 2, 5; 10/6/05 Examiner Interview Summary;	
		interrupting the gaming action of the at least one user: Ordinary meaning; no construction necessary. Alternatively, interrupting (see above re interrupting) the gaming action (see above re gaming action) while the user	11/10/05 Amendment pp. 1- 11; 12/30/05 Examiner's Reason's for Allowance, pp. 1- 7. WEBSTER'S II NEW COLLEGE DICTIONARY (2001)	

PATENT CLAIM	AGREED PROPOSED	PLAINTIFF'S PROPOSED	DEFENDANTS' PROPOSED	COURT'S CONSTRUCTION
	CONSTRUCTION	CONSTRUCTION	CONSTRUCTION	CONSTRUCTION
		is interacting with the game.	"demographics": "n. pl. in	
			number). Demographic data	
		supplying the at least one	use	
		purchased game object to the	esp. to identify consumer	
		at least one user without	markets."	
		interrupting the gaming		
		action of the at least one	THE AMERICAN	
		user: See "purchase," "gaming	HERITAGE	
		action," "interrupting," and	COLLEGE DICTIONARY	
		"interrupting the gaming action	(2000)	
		of the at least one user" above.	"demographics": "The	
		Otherwise, ordinary meaning;	characteristics of human	
		no construction necessary.	populations and population	
			segments, esp. when used to	
		order of claim elements:	identify consumer markets."	
		There is no requirement that		
		steps need to be performed in	WEBSTER'S COLLEGE	
		any particular order, except	DICTIONARY (1996)	
		that, as a matter of common	"demographics": "the	
		sense: (1) activity must be	statistical	
		tracked before there is an offer	data of a population, esp. those	
		to purchase a game object	showing average age, income,	
		dependent upon a group of	education, etc."	
		game parameters comprising		
		the tracked activity; (2) an	the at least one user having a	
		account must be created before	set of demographics: "the	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
		an account balance can be	account maintains two or more	
		compared; (3) a user must have	types of user characteristics	
		a set of demographics before	(such as age or income) that	
		there can be an offer to	associate the account with one	
		purchase a game object	or more consumer markets"	
		dependent upon a group of		
		game parameters comprising	'445 Patent at Abstract, Fig	
		the set of demographics; (4) a	1B, Fig2, Fig 3, fig 4, Fig 4A,	
		purchase price for a game	Fig5; col. 1:17-26; 1:30-2:46;	
		object must be set before it can	2:60-3:20; 3:45-64; 4:58-5:2;	
		be compared, displayed, an	5:13-17; 5:30-38; 6:12-15;	
		offer to purchase presented, or	6:27-54; 7:8-11; 7:62-10:36,	
		a purchase made, or before an	Claims 14, 16, 18, 19	
		offer to purchase a game object		
		can be presenting to a user	'445 Prosecution History,	
		dependent upon the indication	10/6/05 Examiner Interview	
		that the one user has sufficient	Summary;	
		consideration in its account to	11/10/05 Amendment pp. 1-	
		purchase the selected game	11;	
		object at the set price, or	12/30/05 Examiner's Reason's	
		before permitting a user to	for Allowance, pp. 1-7.	
		purchase a game object at a set		
		price; (5) a user must have	WEBSTER'S II NEW	
		consideration before it can be	COLLEGE	
		compared; and (6) a game	DICTIONARY (2001)	
		object must exist at the time it	"demographics": "n. pl. in	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
		is supplied and incorporated	number). Demographic data	
		into a game.	use	
			esp. to identify consumer	
			markets."	
			THE AMERICAN	
			HERITAGE	
			COLLEGE DICTIONARY	
			(2000)	
			"demographics": "The	
			characteristics of human	
			populations and population	
			segments, esp. when used to	
			identify consumer markets."	
			WEBSTER'S COLLEGE	
			DICTIONARY (1996)	
			"demographics": "the	
			statistical	
			data of a population, esp. those	
			showing average age, income,	
			education, etc."	
			the one set of demographics:	
			see construction of "the at least	
			one user having a set of	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
			demographics," above	
			purchase: "to obtain using consideration, i.e. real or virtual currency or equivalents usable for in-game transactions"	
			'445 Patent at Abstract, Fig 1B, Fig2, Fig 3, fig 4, Fig 4A, Fig5; col. 1:17-26; 1:30-2:46; 2:60-3:25; 3:27-33; 3:45-64; 4:58-5:2; 5:13-17; 5:30-38; 6:27-54; 7:8-11; 7:42-44; 7:62-10:36, Claims 14, 16, 18, 19.	
			'445 Prosecution History, 6/17/02 Amendment & Response, p. 10, 12; 3/18/03 Office Action, pp. 4-5; 6/9/03 Appellant's Brief, pp. 2-3; 9/4/03 Examiner's Answer, pp.5-6; 9/7/04 Reply, pp.10-21;	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
			11/12/04 Office Action, pp. 2, 5; 10/6/05 Examiner Interview Summary; 11/10/05 Amendment pp. 1- 11; 12/30/05 Examiner's Reason's for Allowance, pp. 1-7.	
			account: the same account created in elements 1(b), 15(b), and 17(c), respectively consideration: "real or virtual currency or equivalents usable for in-game transactions"	
			'445 Patent at Abstract, Fig 1B, Fig 2, Fig 3, Fig 4,, fig 4A, fig 5, col. 1:17-26; 1:30-2:46; 2:60-3:20; 4:58-5:2; 5:13-17; 5:30-38; 6:27-54; 7:8-11; 7:62- 10:36, Claim 14, 16, 18, 19	
			'445 Prosecution History, 6/17/02 Amendment &	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
			Response, p. 10, 12; 3/18/03 Office Action, pp. 4-5; 6/9/03 Appellant's Brief, pp. 2-3; 9/4/03 Examiner's Answer, pp.5-6; 9/7/04 Reply, pp.10-21; 11/12/04 Office Action, pp. 2, 5; 10/6/05 Examiner Interview Summary; 11/10/05 Amendment pp. 1-11; 12/30/05 Examiner's Reason's for Allowance, pp. 1-7.	
			permitting the at least one user to purchase the at least one game object without interrupting the gaming action of the at least one user: "permitting a user to purchase a game object without causing or making a break in the user's ability to continue playing the game" '445 Patent at Abstract, Fig2,	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
		CONSTRUCTION	Fig3, Fig 4, fig 4A, fig 5; col. 1:30-2:46; 2:50-3:44; 3:54-58; 5:30-38; 5:51-6:26; 6:44-47; 7:62-10:36. '445 Prosecution History, 9/26/00 Petition to Make Special, pp. 2-3; 11/13/01 Reconsideration for Petition to Make Special, pp. 2-4; 6/17/02 Amendment & Response, p. 10, 12; 6/17/02 Amendment & Response, p. 10, 12; 6/9/03 Appellant's Brief, pp. 2-3; 9/4/03 Examiner's Answer, pp.5-6; 9/7/04 Reply, pp.10-21; 10/6/05 Examiner Interview Summary; 11/10/05 Amendment pp. 1-11; 12/30/05 Examiner's Reason's for Allowance, pp. 1-7.	
			WEBSTER'S II NEW COLLEGE	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
			DICTIONARY (2001) "interrupt": "1. To break the harmony or continuity of." THE AMERICAN HERITAGE COLLEGE DICTIONARY (2000) "interrupt": "To break the continuity or uniformity of."	
			WEBSTER'S COLLEGE DICTIONARY (1996) "interrupt": "1. to cause or make a break in the continuity or uniformity of (a course, process, condition, etc.)." U.S. Patent App. 10/418,815, 3/4/10 Office Action at p. 3; 8/4/10 Response to Office Action at pp. 8-9.	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
			interrupting: "causing or making a break in the user's ability to continue" '445 Patent at Abstract, Fig2,	
			Fig3, Fig 4, fig 4A, fig 5; col. 1:30-2:46; 2:50-3:44; 3:54-58; 5:30-38; 5:51-6:26; 6:44-47; 7:62-10:36.	
			'445 Prosecution History, 9/26/00 Petition to Make Special, pp. 2-3; 11/13/01 Reconsideration for	
			Petition to Make Special, pp. 2-4; 6/17/02 Amendment & Response, p. 10, 12; 6/9/03 Appellant's Brief, pp. 2-3;	
			9/4/03 Examiner's Answer, pp.5-6; 9/7/04 Reply, pp.10- 21; 10/6/05 Examiner Interview	
			Summary; 11/10/05 Amendment pp. 1-11; 12/30/05 Examiner's Reason's	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
			for Allowance, pp. 1-7. WEBSTER'S II NEW COLLEGE DICTIONARY (2001) "interrupt": "1. To break the harmony or continuity of." THE AMERICAN HERITAGE COLLEGE DICTIONARY (2000) "interrupt": "To break the continuity or uniformity of." WEBSTER'S COLLEGE DICTIONARY (1996) "interrupt": "1. to cause or make a break in the continuity or uniformity of	CONSTRUCTION
			(a course, process, condition, etc.)." U.S. Patent App. 10/418,815,	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
			3/4/10 Office Action at p. 3;	
			8/4/10 Response to Office	
			Action at pp. 8-9.	
			interrupting the gaming action of the at least one user: "causing or making a break in the user's ability to continue playing the game"	
			'445 Patent at Abstract, Fig2, Fig3, Fig 4, fig 4A, fig 5; col. 1:30-2:46; 2:50-3:44; 3:54-58; 5:30-38; 5:51-6:26; 6:44-47; 7:62-10:36.	
			'445 Prosecution History, 9/26/00 Petition to Make Special, pp. 2-3; 11/13/01 Reconsideration for Petition to Make Special, pp. 2-4; 6/17/02 Amendment & Response, p. 10, 12; 6/9/03	
			Appellant's Brief, pp. 2-3; 9/4/03 Examiner's Answer,	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
			pp.5-6; 9/7/04 Reply, pp.10-21; 10/6/05 Examiner Interview Summary; 11/10/05 Amendment pp. 1-11; 12/30/05 Examiner's Reason's for Allowance, pp. 1-7. WEBSTER'S II NEW COLLEGE DICTIONARY (2001) "interrupt": "1. To break the harmony or continuity of."	
			THE AMERICAN HERITAGE COLLEGE DICTIONARY (2000) "interrupt": "To break the continuity or uniformity of." WEBSTER'S COLLEGE DICTIONARY (1996) "interrupt": "1. to cause or make a break in	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
			the continuity or uniformity of (a course, process, condition, etc.)." U.S. Patent App. 10/418,815, 3/4/10 Office Action at p. 3; 8/4/10 Response to Office Action at pp. 8-9.	
			supplying the at least one purchased game object to the at least one user without interrupting the gaming action of the at least one user: "supply the game object to the user without causing or making a break in the user's ability to continue playing the game"	
			'445 Patent at Abstract, Fig2, Fig3, Fig 4, fig 4A, fig 5; col. 1:30-2:46; 2:50-3:44; 3:54-58; 5:30-38; 5:51-6:26; 6:44-47; 7:62-10:36.	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
			'445 Prosecution History, 9/26/00 Petition to Make Special, pp. 2-3; 11/13/01 Reconsideration for Petition to Make Special, pp. 2-4; 6/17/02 Amendment & Response, p. 10, 12; 6/17/02 Amendment & Response, p. 10, 12; 6/9/03 Appellant's Brief, pp. 2-3; 9/4/03 Examiner's Answer, pp.5-6; 9/7/04 Reply, pp.10-21; 11/12/04 Office Action, pp. 2, 5; 10/6/05 Examiner Interview Summary; 11/10/05 Amendment pp. 1-11; 12/30/05 Examiner's Reason's for Allowance, pp. 1-7 WEBSTER'S II NEW COLLEGE DICTIONARY (2001) "interrupt": "1. To break the harmony or	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
			continuity of." THE AMERICAN HERITAGE COLLEGE DICTIONARY (2000) "interrupt": "To break the continuity or uniformity of."	
			WEBSTER'S COLLEGE DICTIONARY (1996) "interrupt": "1. to cause or make a break in the continuity or uniformity of (a course, process, condition, etc.)."	
			U.S. Patent App. 10/418,815, 3/4/10 Office Action at p. 3; 8/4/10 Response to Office Action at pp. 8-9. order of claim elements: The claims require all the steps to be performed in order.	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
2. The method of claim 1, wherein the gaming environment comprises a video game that generates a series of background images, and the at least one selected game object is directed to act in accordance with the gaming action of the at least one user throughout the series of background images.	N/A	gaming action: see above order of claim elements: See Claim 1 above. Otherwise, there is no requirement that steps need to be performed in any order	gaming action: see above order of claim elements: The claims require all the steps to be performed in order.	gaming action: see above order of claim elements:
9. The method of claim 1, wherein the gaming action comprises the at least one user and the at least one game object that is programmed to give an advantage to the at least one user.	N/A	gaming action: see above order of claim elements: See Claim 1 above. Otherwise, there is no requirement that steps need to be performed in any order	gaming action: see above order of claim elements: The claims require all the steps to be performed in order.	gaming action: see above order of claim elements:
10. The method of claim 1, wherein the gaming action is selected from a group comprising at least one of a plurality of fighting engagements on a battlefield, one fighting engagement using weaponry, one engagement in a sport, at least one marketing of pizza, at least one user playing a role in a game environment, and/or at least one user firing a weapon.	N/A	gaming action: see above order of claim elements: See Claim 1 above. Otherwise, there is no requirement that steps need to be performed in any order	gaming action: see above order of claim elements: The claims require all the steps to be performed in order.	gaming action: see above order of claim elements:
15. A method of managing the operation of a game which	N/A	gaming action: see above	gaming action: see above	gaming action: see above

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
includes a game environment, and is programmed to control a gaming action of at least one of a plurality of users, said managing method using a programmed computer to effect the following steps: a) tracking the activity of the at least one user in the course of the gaming action; b) creating an account for the at least one user for maintaining a balance of the at least one user; c) enabling the at least one user to select at least one of a plurality of game objects; d) setting the purchase price of the at least one game object; e) comparing the account balance with the set price of the at least one game object and, determining if the user's account balance is not less than the set price, then the at least one user is eligible to purchase the one selected game object; f) presenting to the at least one user an offer to purchase the game object dependent upon a group of game parameters comprising the tracked activity of the at least one user, and an indication of whether the at least one user has made a commitment of consideration to purchase the one selected game object; g) ordering the at least one selected game object without interrupting the gaming action of the at least one user without interrupting the gaming action of the gaming action of the at least one user and incorporating the game object into the game.		creating an account for the at least one user for maintaining a balance of the at least one user: Ordinary meaning; no construction necessary. purchase: see above account: see above ordering: Ordinary meaning, no construction necessary. at least one user has made a commitment of consideration: The user has agreed to exchange consideration to purchase the selected game object. See above re "consideration" and "purchase." consideration: see above	creating an account for the at least one user for maintaining a balance of the at least one user: "creating an account for storing a consideration balance of the at least one user" '445 Patent at Abstract, Fig 1B, Fig2, Fig 3, fig 4, Fig 4A, Fig5; col. 1:17-26; 1:30-2:46; 2:60-3:25; 3:27-33; 3:45-64; 4:58-5:2; 5:13-17; 5:30-38; 6:27-54; 7:8-11; 7:42-44; 7:62-10:36, Claims 14, 16, 18, 19. '445 Prosecution History, 9/26/00 Petition to Make Special, pp. 2-3; 11/13/01 Reconsideration for Petition to Make Special, pp. 2-4; 6/17/02 Amendment &	creating an account for the at least one user for maintaining a balance of the at least one user: purchase: see above account: see above ordering: at least one user has made a commitment of consideration: consideration: see above ordering the at least one selected game object without interrupting the gaming action of the at least one user: interrupting the gaming
			Response, p. 10, 12; 3/18/03	action of the at least one

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED	DEFENDANTS' PROPOSED	COURT'S CONSTRUCTION
	CONSTRUCTION	CONSTRUCTION	CONSTRUCTION	
		ordering the at least one	Office Action, pp. 4-5; 6/9/03	user: see above
		selected game object without	Appellant's Brief, pp. 2-3;	
		interrupting the gaming	9/4/03 Examiner's Answer,	supplying the selected one
		action of the at least one	pp.5-6; 9/7/04 Reply, pp.10-	game object to the at least
		user: See "action," "gaming	21;	one user without
		action" and "interrupting"	11/12/04 Office Action, pp. 2,	interruption of the gaming
		above. Otherwise, ordinary	5; 10/6/05 Examiner Interview	action of the at least one
		meaning; no construction	Summary; 11/10/05	user: see above
		necessary.	Amendment pp. 1-11;	
			12/30/05 Examiner's Reason's	order of claim elements:
		interrupting the gaming	for Allowance, pp. 1-7.	
		action of the at least one		
		user: see above	purchase: see above	
		supplying the selected one	account: see above	
		game object to the at least		
		one user without	ordering: "the system placing	
		interruption of the gaming	an order for an object from a	
		action of the at least one	third party"	
		user: see above		
			'445 Patent at Abstract, Fig	
		order of claim elements:	1B, Fig2, Fig 3, fig 4, Fig 4A,	
		There is no requirement that	Fig5; col. 1:17-26; 1:30-2:46;	
		steps need to be performed in	2:60-3:25; 3:27-33; 3:45-64;	
		any order, except that, as a	4:58-5:2; 5:13-17; 5:30-38;	
		matter of common sense: (1)	6:27-54; 7:8-11; 7:42-44;	

PATENT CLAIM	AGREED PROPOSED	PLAINTIFF'S	DEFENDANTS' PROPOSED	COURT'S
	CONSTRUCTION	PROPOSED CONSTRUCTION	CONSTRUCTION	CONSTRUCTION
		activity must be tracked before	7:62-10:36, Claims 14, 16, 18,	
		there is an offer to purchase a	19.	
		game object dependent upon a		
		group of game parameters		
		comprising the tracked	'445 Prosecution History,	
		activity; (2) an account must	9/26/00 Petition to Make	
		be created at or before it has a	Special, pp. 2-3;	
		balance and before there is a	11/13/01 Reconsideration for	
		determination of sufficient	Petition to Make Special, pp.	
		consideration in an account to	2-4;	
		purchase; (3) a purchase price	6/17/02 Amendment &	
		for a game object must be set	Response, p. 10, 12; 6/17/02	
		before an offer to purchase a	Amendment & Response, p.	
		game object can be presented	10, 12; 3/18/03 Office Action,	
		to a user dependent upon	pp. 4-5; 6/9/03 Appellant's	
		whether the user has made a	Brief, pp. 2-3; 9/4/03	
		commitment of consideration	Examiner's Answer, pp.5-6;	
		to purchase the one selected	9/7/04 Reply, pp.10-21;	
		game object; and (4) a game	11/12/04 Office Action, pp. 2,	
		object must exist at the time it	5;10/6/05 Examiner Interview	
		is supplied and incorporated	Summary; 11/10/05	
		into a game.	Amendment pp. 1-11;	
			12/30/05 Examiner's Reason's	
			for Allowance, pp. 1-7.	
			-414 b 1	
			at least one user has made a	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
			commitment of consideration: "a user has promised to pay for the selected game object" consideration: see above	
			ordering the at least one selected game object without interrupting the gaming action of the at least one user: "ordering a game object without causing or making a break in the user's ability to	
			continue playing the game" '445 Patent at Abstract, Fig2, Fig3, Fig 4, fig 4A, fig 5; col. 1:30-2:46; 2:50-3:44; 3:54-58; 5:30-38; 5:51-6:26; 6:44-47; 7:62-10:36.	
			'445 Prosecution History, 9/26/00 Petition to Make Special, pp. 2-3; 11/13/01 Reconsideration for	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
			Petition to Make Special, pp. 2-4; 6/17/02 Amendment & Response, p. 10, 12; 6/17/02 Amendment & Response, p. 10, 12; 3/18/03 Office Action, pp. 4-5; 6/9/03 Appellant's Brief, pp. 2-3; 9/4/03 Examiner's Answer, pp.5-6; 9/7/04 Reply, pp.10-21; 11/12/04 Office Action, pp. 2, 5; 10/6/05 Examiner Interview Summary; 11/10/05 Amendment pp. 1-11; 12/30/05 Examiner's Reason's for Allowance, pp. 1-7. WEBSTER'S II NEW COLLEGE DICTIONARY (2001) "interrupt": "1. To break the harmony or continuity of." THE AMERICAN HERITAGE	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
			COLLEGE DICTIONARY (2000) "interrupt": "To break the continuity or uniformity of." WEBSTER'S COLLEGE	
			DICTIONARY (1996) "interrupt": "1. to cause or make a break in the continuity or uniformity of (a course, process, condition, etc.)."	
			U.S. Patent App. 10/418,815, 3/4/10 Office Action at p. 3; 8/4/10 Response to Office Action at pp. 8-9.	
			interrupting the gaming action of the at least one user: see above supplying the selected one game object to the at least one user without	

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
		CONSTRUCTION	interruption of the gaming action of the at least one user: see above order of claim elements: The claims require all the steps to be performed in order.	
17. A method of managing the operation of a game which includes a game environment and is programmed to control a gaming action of at least one of a plurality of users, said	N/A	gaming action: see above consideration: see above	gaming action: see above consideration: see above	gaming action: see above consideration: see above
managing method using a programmed computer to effect the following steps: a) tracking the activity of the at least one user in the course of the gaming action ; b) displaying in the game environment a plurality of game objects; c) creating an		creating an account for storing the consideration of	creating an account for storing the consideration of	creating an account for storing the consideration of
account for storing the consideration of the at least one user; d) permitting the at least one user to select one or more		the at least one user: "creating an account for	the at least one user: "creating an account for	the at least one user:
of the plurality of the displayed game objects, each game object having a set price; e) determining if the at least one user has sufficient consideration in its account to purchase		storing a consideration balance of the at least one user"	storing a consideration balance of the at least one user"	account: see above
the selected one game object and to provide an indication thereof; f) presenting to the at least one user an offer to		[Agreed.] account: see above	'445 Patent at Abstract, Fig 1B, Fig2, Fig 3, fig 4, Fig 4A,	purchase : see above re purchase
purchase the game object dependent upon a group of game parameters comprising the tracked activity of the at least one user, and the indication that the one user has sufficient		purchase: see above	Fig5; col. 1:17-26; 1:30-2:46; 2:60-3:25; 3:27-33; 3:45-64;	permitting the at least one user to purchase the at least
consideration in its account to purchase the selected game object at the set price; g) permitting the at least one user to		permitting the at least one	4:58-5:2; 5:13-17; 5:30-38; 6:27-54; 7:8-11; 7:42-44;	one game object without interrupting the gaming
purchase the at least one game object at the set price without interrupting the gaming action of the one user;		user to purchase the at least	7:62-10:36, Claims 14, 16, 18,	action of the one user: see

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED	DEFENDANTS' PROPOSED	COURT'S CONSTRUCTION
	CONSTRUCTION	CONSTRUCTION	CONSTRUCTION	
and h) supplying at least one purchased game object to the at		one game object without	19.	above
least one user without interrupting the gaming action of the		interrupting the gaming		
at least one user and incorporating the game object into the		action of the one user: see		supplying the selected one
game.		above	'445 FH 9/26/00 Petition to	game object to the at least
			Make Special, pp. 2-3;	one user without
		supplying the selected one	11/13/01 Reconsideration for	interruption of the gaming
		game object to the at least	Petition to Make Special, pp.	action of the at least one
		one user without	2-4; 6/17/02 Amendment &	user: see above
		interruption of the gaming	Response, p. 10, 12;	
		action of the at least one	6/17/02 Amendment &	order of claim elements:
		user: see above	Response, p. 10, 12; 3/18/03	
			Office Action, pp. 4-5; 6/9/03	
		order of claim elements:	Appellant's Brief, pp. 2-3;	
		There is no requirement that	9/4/03 Examiner's Answer,	
		steps need to be performed in	pp.5-6; 9/7/04 Reply, pp.10-	
		any order, except that, as a	21;	
		matter of common sense: (1)	11/12/04 Office Action, pp. 2,	
		activity must be tracked before	5	
		there is an offer to purchase a	10/6/05 Examiner Interview	
		game object dependent upon a	Summary; 11/10/05	
		group of game parameters	Amendment pp. 1-11;	
		comprising the tracked	12/30/05 Examiner's Reason's	
		activity; (2) an account must	for Allowance, pp. 1-7.	
		be created before a		
		determination of sufficient	account: see above	
		consideration in an account to		

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
		purchase is made; (3) a purchase price for a game object must be set before an offer to purchase a game object can be presenting to a user dependent upon the indication that the one user has sufficient consideration in its account to purchase the selected game object at the set price, or before permitting a user to purchase a game object at a set price; and (4) a game object must exist at the time it is supplied and incorporated into a game.	purchase: see above permitting the at least one user to purchase the at least one game object without interrupting the gaming action of the one user: see above supplying the selected one game object to the at least one user without interruption of the gaming action of the at least one user: see above order of claim elements: The claims require all the steps to be performed in order.	
18. A method of claim 17, wherein there is included the further steps of: a) testing the eligibility of the at least one user to participate in the gaming action ; and b) said eligibility testing comprises the following sub steps: i) permitting the at least one user to select at least one of a	N/A	<pre>gaming action: see above purchase: see above order of claim elements: See</pre>	<pre>gaming action: see above purchase: see above order of claim elements: The</pre>	purchase: see above order of claim elements:
plurality of game objects, ii) setting the purchase price of the at least one game object, and iii) comparing the committed		claim 17 above. As for claim	claims require all the steps to	order of claim cicinents.

Case 3:12-cv-00501-BEN-RBB Document 165 Filed 11/19/12 Page 29 of 29

PATENT CLAIM	AGREED PROPOSED CONSTRUCTION	PLAINTIFF'S PROPOSED CONSTRUCTION	DEFENDANTS' PROPOSED CONSTRUCTION	COURT'S CONSTRUCTION
consideration with the set price of the at least one game object and, if the committed consideration is not less than the set price, permitting the at least one user to participate in the gaming action.		18, there is no requirement that steps need to be performed in any order, except that, as a matter of common sense: (1) a game object must exist before it is selected; and (2) a purchase price must be set before it can be compared to the committed consideration.	be performed in order.	